

ST 05-0027-PLR 12/30/2005 SERVICE OCCUPATION TAX

The volume production (50 or more) of an identical roof truss or wall panel in a single order or simultaneous orders will be subject to Retailers' Occupation Tax liability, rather than Service Occupation Tax liability. This letter clarifies that any subsequent order of an identical roof truss or wall panel after the initial order or simultaneous order will be subject to Retailers' Occupation Tax liability regardless of whether or not that roof truss or wall panel is part of a roof truss system or wall panel system. See 86 Ill. Adm. Code 130.2115. This letter ruling partially rescinds Private Letter Ruling ST 03-0021-PLR. (This is a PLR).

December 30, 2005

Dear Xxxxx:

This Private Letter Ruling, issued pursuant to 2 Ill. Adm. Code 1200.110, is sent to partially rescind a Private Letter Ruling ST 03-0021-PLR (copy enclosed) dated August 27, 2003. Section 4(c) of the Taxpayers' Bill of Rights directs the Department to abate taxes and penalties assessed based upon erroneous written information or advice given by the Department. Consequently, you will not incur tax liability as a result of your reliance upon the specific provisions of our prior correspondence. However, upon your receipt of this Private Letter Ruling, the provisions of this Private Letter Ruling amending Private Letter Ruling ST 03-0021-PLR shall become binding.

In Private Letter Ruling ST 03-0021-PLR, you stated that "[t]he individual trusses which comprise the roof truss system may be duplicated many times, but it would be unusual for [ABC] to fabricate more than fifty identical roof truss systems regardless of the number of new homes in a development." We are amending Private Letter Ruling ST 03-0021-PLR to clarify that the volume production (50 or more) of an identical roof truss or wall panel in a single order or simultaneous orders will be subject to Retailers' Occupation Tax liability. The volume production rule will be applied independent of whether the roof trusses or wall panels are part of roof truss system or wall panel system. Any subsequent order of an identical roof truss or wall panel after the initial order will be subject to Retailers' Occupation Tax liability regardless of whether or not that roof truss or wall panel is part of a roof truss system or wall panel system.¹ Subsequent orders include such orders from persons other than those who placed the initial order as long as there are no material changes to the item or items being ordered. See 86 Ill. Adm. Code 130.2115(a)(4).

Please note that Private Letter Ruling ST 03-0021-PLR, as amended by this Private Letter Ruling, will be revoked in its entirety and will cease to bind the Department 10 years after the date of issuance of that letter ruling under the provisions of 2 Ill. Adm. Code 1200.110(e) or earlier if there is a pertinent change in statutory law, case law, rules or in the factual representations recited in that ruling.

¹ A subsequent order is any order dated after the date of the initial order of the identical item.

If you have questions concerning this Private Letter Ruling, you may contact me at (217) 782-2844. If you have further questions related to the Illinois sales tax laws, please visit our website at www.tax.illinois.gov or contact the Department's Taxpayer Information Division at (217) 782-3336.

Very truly yours,

Terry D. Charlton
Senior Counsel – Sales and Excise Taxes

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